

Congress of the United States

Washington, DC 20515

May 24, 2002

Honorable Pat Wood III
Federal Energy Regulatory Commission
888 First St., N.E.
Washington, DC 20426

Dear Chairman Wood:

We are writing to express our hope that the Federal Energy Regulatory Commission (FERC) will take prompt and effective action to ensure that California's ratepayers receive the natural gas they need at a reasonable price.

On July 13, 2001, the California Public Utilities Commission, state utilities, and various natural gas producers and shippers filed a complaint with FERC that accused El Paso Natural Gas Company of failing to meet its contractual and public service obligations by selling "more firm capacity than it can reliably provide." The complaint noted that El Paso's overselling of its capacity was compounded by the unlimited ability of east-of-California gas customers to claim gas from El Paso's pipeline to meet their increasing demand. The situation resulted in California gas shippers paying for services that they are not receiving and "contributed to artificially high gas prices on the El Paso system, which have caused enormous harm to both gas and electric markets throughout the West."

We understand that east-of-California customers also need to meet their gas demands. However, we are concerned that the ability of those customers to take additional gas from the El Paso system without paying for that additional service unfairly deprives California consumers of the gas they need and are paying for. In fact, in 2001, two of the largest east of California shippers utilized pipeline capacity that was four and eight times more than their original allocation. Furthermore, we believe that the status quo creates disincentives for east-of-California shippers to pay for new pipelines or pipeline capacity additions.

We are also aware that east-of-California customers allege that their "full requirements" contracts with El Paso provide them virtually unlimited access to El Paso's pipeline, and that limits on that access would constitute contract abrogation. However, we are informed that this interpretation is not supported by relevant principles of Texas contract law that govern El Paso's transportation contracts. Under Texas contract law, access to pipeline capacity pursuant to a "full requirements" contract is limited to reasonable levels. Moreover, these contracts are explicitly subject to modification by FERC if it determines that the "public interest" requires such modification. Thus, we do not believe that imposing some limit on east-of-California customers' access to the El Paso pipeline can be fairly represented as an abrogation of those contracts but, instead, an appropriate interpretation of them.

FERC held a technical conference on April 16, 2002, to discuss possible solutions to this

problem. We hope that FERC will act soon to ensure that California's customers receive the gas they are paying for. With summer and increased demand for natural gas approaching, it is imperative that FERC act quickly to ensure that Californians do not suffer again from energy shortfalls and high prices.

Sincerely,

Tony Lee
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Susan

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David Durr

Jane Harman

cc: Honorable Linda Key Breathitt
Honorable Nora Mead Brownell
Honorable William L. Massey